

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1108

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 23-901, Arizona Revised Statutes, is amended to read:

23-901. Definitions

In this chapter, unless the context otherwise requires:

1. "Award" means the finding or decision of an administrative law judge or the commission as to the amount of compensation or benefit due an injured employee or the dependents of a deceased employee.

2. "Client" means an individual, association, company, firm, partnership, corporation or any other legally recognized entity that is subject to ~~the provisions of~~ this chapter and that enters into a professional employer agreement with a professional employer organization.

3. "Co-employee" means every person employed by an injured employee's employer.

4. "Commission" means the industrial commission of Arizona.

5. "Compensation" means the compensation and benefits provided by this chapter.

6. "Employee", "workman", "worker" and "operative" means:

(a) Every person in the service of the state or a county, city, town, municipal corporation or school district, including regular members of lawfully constituted police and fire departments of cities and towns, whether by election, appointment or contract of hire.

(b) Every person in the service of any employer subject to this chapter, including ~~aliens and~~ minors legally or illegally permitted to work for hire, but not including a person:

(i) Whose employment is both ~~—~~

~~(i)~~ casual ~~—~~

1 ~~(ii)~~ AND not in the usual course of the trade, business or occupation
2 of the employer.

3 (ii) WHO IS AN ILLEGAL ALIEN. FOR THE PURPOSES OF THIS ITEM, "ILLEGAL
4 ALIEN" MEANS ANY PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE UNITED STATES
5 AND WHO IS UNLAWFULLY PRESENT OR UNLAWFULLY RESIDING IN THE UNITED STATES.

6 (c) Lessees of mining property and their employees and contractors
7 engaged in the performance of work which is a part of the business conducted
8 by the lessor and over which the lessor retains supervision or control are
9 within the meaning of this paragraph employees of the lessor, and are deemed
10 to be drawing wages as are usually paid employees for similar work. The
11 lessor may deduct from the proceeds of ores mined by the lessees the premium
12 required by this chapter to be paid for such employees.

13 (d) Regular members of volunteer fire departments organized pursuant
14 to title 48, chapter 5, article 1, regular ~~firemen~~ FIREFIGHTERS of any
15 volunteer fire department, including private fire protection service
16 organizations, organized pursuant to title 10, chapters 24 through 40,
17 volunteer ~~firemen~~ FIREFIGHTERS serving as members of a fire department of any
18 incorporated city or town or an unincorporated area without pay or without
19 full pay and on a part-time basis, and voluntary ~~policemen~~ POLICE OFFICERS
20 and volunteer ~~firemen~~ FIREFIGHTERS serving in any incorporated city, town or
21 unincorporated area without pay or without full pay and on a part-time basis,
22 are deemed to be employees, but for the purposes of this chapter, the basis
23 for computing wages for premium payments and compensation benefits for
24 regular members of volunteer fire departments organized pursuant to title 48,
25 chapter 5, article 1, or organized pursuant to title 10, chapters 24 through
26 40, regular members of any private fire protection service organization,
27 volunteer ~~firemen~~ FIREFIGHTERS and volunteer ~~policemen~~ POLICE OFFICERS of
28 these departments or organizations shall be the salary equal to the beginning
29 salary of the same rank or grade in the full-time service with the city,
30 town, volunteer fire department or private fire protection service
31 organization, provided if there is no full-time equivalent then the salary

1 equivalent shall be as determined by resolution of the governing body of the
2 city, town or volunteer fire department or corporation.

3 (e) Members of the department of public safety reserve, organized
4 pursuant to section 41-1715, are deemed to be employees. For the purposes of
5 this chapter, the basis for computing wages for premium payments and
6 compensation benefits for a member of the department of public safety reserve
7 who is a peace officer shall be the salary received by officers of the
8 department of public safety for their first month of regular duty as an
9 officer. For members of the department of public safety reserve who are not
10 peace officers, the basis for computing premiums and compensation benefits is
11 four hundred dollars a month.

12 (f) Any person placed in on-the-job evaluation or in on-the-job
13 training under the department of economic security's temporary assistance for
14 needy families program or vocational rehabilitation program shall be deemed
15 to be an employee of the department for the purpose of coverage under the
16 state workers' compensation laws only. The basis for computing premium
17 payments and compensation benefits shall be two hundred dollars per month.
18 Any person receiving vocational rehabilitation services under the department
19 of economic security's vocational rehabilitation program whose major
20 evaluation or training activity is academic, whether as an enrolled attending
21 student or by correspondence, or who is confined to a hospital or penal
22 institution, shall not be deemed to be an employee of the department for any
23 purpose. Any dividend which the department's vocational rehabilitation
24 program may be entitled to receive from the state compensation fund because
25 of a favorable loss experience for any policy period shall not revert to the
26 state general fund but shall be applied to the department's current premium
27 obligations for workers' compensation coverage for such program.

28 (g) Regular members of a volunteer sheriff's reserve, which may be
29 established by resolution of the county board of supervisors, to assist the
30 sheriff in the performance of the sheriff's official duties. A roster of the
31 current members shall monthly be certified to the clerk of the board of
32 supervisors by the sheriff and shall not exceed the maximum number authorized

1 by the board. Certified members of an authorized volunteer sheriff's reserve
2 shall be deemed to be employees of the county for the purpose of coverage
3 under the Arizona workers' compensation laws and occupational disease
4 disability laws and shall be entitled to receive the benefits of these laws
5 for any compensable injuries or disabling conditions which arise out of and
6 occur in the course of the performance of duties authorized and directed by
7 the sheriff. Compensation benefits and premium payments shall be based upon
8 the salary received by a regular full-time deputy sheriff of the county
9 involved for the first month of regular patrol duty as an officer for each
10 certified member of a volunteer sheriff's reserve. This subdivision shall
11 not be construed to provide compensation coverage for any member of a
12 sheriff's posse who is not a certified member of an authorized volunteer
13 sheriff's reserve except as a participant in a search and rescue mission or a
14 search and rescue training mission.

15 (h) A working member of a partnership may be deemed to be an employee
16 entitled to the benefits provided by this chapter upon written acceptance, by
17 endorsement, at the discretion of the insurance carrier for the partnership
18 of an application for coverage by the working partner. The basis for
19 computing premium payments and compensation benefits for the working partner
20 shall be an assumed average monthly wage of not less than six hundred dollars
21 nor more than the maximum wage provided in section 23-1041 and is subject to
22 the discretionary approval of the insurance carrier. Any compensation for
23 permanent partial or permanent total disability payable to the partner shall
24 be computed on the lesser of the assumed monthly wage agreed to by the
25 insurance carrier on the acceptance of the application for coverage or the
26 actual average monthly wage received by the partner at the time of injury.

27 (i) The sole proprietor of a business subject to this chapter may be
28 deemed to be an employee entitled to the benefits provided by this chapter on
29 written acceptance, by endorsement, at the discretion of the insurance
30 carrier of an application for coverage by the sole proprietor. The basis for
31 computing premium payments and compensation benefits for the sole proprietor
32 shall be an assumed average monthly wage of not less than six hundred dollars

1 nor more than the maximum wage provided by section 23-1041 and is subject to
2 the discretionary approval of the insurance carrier. Any compensation for
3 permanent partial or permanent total disability payable to the sole
4 proprietor shall be computed on the lesser of the assumed monthly wage agreed
5 to by the insurance carrier on the acceptance of the application for coverage
6 or the actual average monthly wage received by the sole proprietor at the
7 time of injury.

8 (j) A member of the Arizona national guard, Arizona state guard or
9 unorganized militia shall be deemed a state employee and entitled to coverage
10 under the Arizona workers' compensation law at all times while the member is
11 receiving the payment of the member's military salary from the state of
12 Arizona under competent military orders or upon order of the governor.
13 Compensation benefits shall be based upon the monthly military pay rate to
14 which the member is entitled at the time of injury, but not less than a
15 salary of four hundred dollars per month, nor more than the maximum provided
16 by the workers' compensation law. No Arizona compensation benefits shall
17 inure to a member compensable under federal law.

18 (k) Certified ambulance drivers and attendants who serve without pay
19 or without full pay on a part-time basis are deemed to be employees and
20 entitled to the benefits provided by this chapter and the basis for computing
21 wages for premium payments and compensation benefits for certified ambulance
22 personnel shall be four hundred dollars per month.

23 (l) Volunteer workers of a licensed health care institution may be
24 deemed to be employees and entitled to the benefits provided by this chapter
25 upon written acceptance by the insurance carrier of an application by the
26 health care institution for coverage of such volunteers. The basis for
27 computing wages for premium payments and compensation benefits for volunteers
28 shall be four hundred dollars per month.

29 (m) Personnel who participate in a search or rescue operation or a
30 search or rescue training operation that carries a mission identifier
31 assigned by the division of emergency management as provided in section
32 35-192.01 and who serve without compensation as volunteer state employees.

1 The basis for computation of wages for premium purposes and compensation
2 benefits is the total volunteer man-hours recorded by the division of
3 emergency management in a given quarter multiplied by the amount determined
4 by the appropriate risk management formula.

5 (n) Personnel who participate in emergency management training,
6 exercises or drills that are duly enrolled or registered with the division of
7 emergency management or any political subdivision as provided in section
8 26-314, subsection C and who serve without compensation as volunteer state
9 employees. The basis for computation of wages for premium purposes and
10 compensation benefits is the total volunteer man-hours recorded by the
11 division of emergency management or political subdivision during a given
12 training session, exercise or drill multiplied by the amount determined by
13 the appropriate risk management formula.

14 (o) Regular members of the Arizona game and fish department reserve,
15 organized pursuant to section 17-214. The basis for computing wages for
16 premium payments and compensation benefits for a member of the reserve is the
17 salary received by game rangers and wildlife managers of the Arizona game and
18 fish department for their first month of regular duty.

19 (p) Every person employed pursuant to a professional employer
20 agreement.

21 (q) Members of the department of administration capitol police
22 reserve, organized pursuant to section 41-794, are deemed to be employees.
23 For the purposes of this chapter, the basis for computing wages for premium
24 payments and compensation benefits for a member of the department of
25 administration capitol police reserve who is a peace officer shall be the
26 salary received by officers of the department of administration for their
27 first month of regular duty as an officer.

28 7. "General order" means an order applied generally throughout the
29 state to all persons under jurisdiction of the commission.

30 8. "Heart-related or perivascular injury, illness or death" means
31 myocardial infarction, coronary thrombosis or any other similar sudden,
32 violent or acute process involving the heart or perivascular system, or any

1 death resulting therefrom, and any weakness, disease or other condition of
2 the heart or perivascular system, or any death resulting therefrom.

3 9. "Insurance carrier" means the state compensation fund and every
4 insurance carrier duly authorized by the director of insurance to write
5 workers' compensation or occupational disease compensation insurance in the
6 state of Arizona.

7 10. "Interested party" means the employer, the employee, or if the
8 employee is deceased, the surviving spouse or dependents, the commission, the
9 insurance carrier or their representative.

10 11. "Mental injury, illness or condition" means any mental, emotional,
11 psychotic or neurotic injury, illness or condition.

12 12. "Order" means and includes any rule, direction, requirement,
13 standard, determination or decision other than an award or a directive by the
14 commission or an administrative law judge relative to any entitlement to
15 compensation benefits, or to the amount thereof, and any procedural ruling
16 relative to the processing or adjudicating of a compensation matter.

17 13. "Personal injury by accident arising out of and in the course of
18 employment" means any of the following:

19 (a) Personal injury by accident arising out of and in the course of
20 employment.

21 (b) An injury caused by the wilful act of a third person directed
22 against an employee because of the employee's employment, but does not
23 include a disease unless resulting from the injury.

24 (c) An occupational disease which is due to causes and conditions
25 characteristic of and peculiar to a particular trade, occupation, process or
26 employment, and not the ordinary diseases to which the general public is
27 exposed, and subject to section 23-901.01.

28 14. "Professional employer agreement" means a written contract between
29 a client and a professional employer organization:

30 (a) In which the professional employer organization expressly agrees
31 to co-employ all or a majority of the employees providing services for the
32 client. In determining whether the professional employer organization

1 employs all or a majority of the employees of a client, any person employed
2 pursuant to the terms of the professional employer agreement after the
3 initial placement of client employees on the payroll of the professional
4 employer organization shall be included.

5 (b) That is intended to be ongoing rather than temporary in nature.

6 (c) In which employer responsibilities for worksite employees,
7 including hiring, firing and disciplining, are expressly allocated between
8 the professional employer organization and the client in the agreement.

9 15. "Professional employer organization" means any person engaged in
10 the business of providing professional employer services. Professional
11 employer organization does not include a temporary help firm or an employment
12 agency.

13 16. "Professional employer services" means the service of entering into
14 co-employment relationships under this chapter to which all or a majority of
15 the employees providing services to a client or to a division or work unit of
16 a client are covered employees.

17 17. "Special order" means an order other than a general order.

18 18. "State compensation fund" includes the state compensation fund,
19 accident benefit fund and occupational disease compensation fund in existence
20 on January 2, 1969 and shall thereafter include all funds under the
21 jurisdiction of the board of directors of the state compensation fund which
22 have been derived from the assessment of premiums, interest, penalties and
23 investment earnings for the payment of all workers' compensation and
24 occupational disease compensation benefits.

25 19. "Weakness, disease or other condition of the heart or perivascular
26 system" means arteriosclerotic heart disease, cerebral vascular disease,
27 peripheral vascular disease, cardiovascular disease, angina pectoris,
28 congestive heart trouble, coronary insufficiency, ischemia and all other
29 similar weaknesses, diseases and conditions, and also previous episodes or
30 instances of myocardial infarction, coronary thrombosis or any similar
31 sudden, violent or acute process involving the heart or perivascular system.

1 20. "Workers' compensation" means workmen's compensation as used in
2 article XVIII, section 8, Constitution of Arizona."
3 Amend title to conform

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